

1 **TITLE II—RENEWABLE ENERGY**

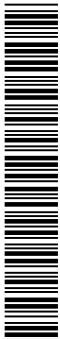
2 **Subtitle A—General Provisions**

3 **SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RE-** 4 **SOURCES.**

5 (a) RESOURCE ASSESSMENT.—Not later than 6
6 months after the date of enactment of this Act, and each
7 year thereafter, the Secretary of Energy shall review the
8 available assessments of renewable energy resources with-
9 in the United States, including solar, wind, biomass, ocean
10 (tidal, wave, current, and thermal), geothermal, and hy-
11 droelectric energy resources, and undertake new assess-
12 ments as necessary, taking into account changes in market
13 conditions, available technologies, and other relevant fac-
14 tors.

15 (b) CONTENTS OF REPORTS.—Not later than 1 year
16 after the date of enactment of this Act, and each year
17 thereafter, the Secretary shall publish a report based on
18 the assessment under subsection (a). The report shall
19 contain—

20 (1) a detailed inventory describing the available
21 amount and characteristics of the renewable energy
22 resources; and



1 (2) such other information as the Secretary be-
2 lieves would be useful in developing such renewable
3 energy resources, including descriptions of sur-
4 rounding terrain, population and load centers, near-
5 by energy infrastructure, location of energy and
6 water resources, and available estimates of the costs
7 needed to develop each resource, together with an
8 identification of any barriers to providing adequate
9 transmission for remote sources of renewable energy
10 resources to current and emerging markets, rec-
11 ommendations for removing or addressing such bar-
12 riers, and ways to provide access to the grid that do
13 not unfairly disadvantage renewable or other energy
14 producers.

15 (c) **AUTHORIZATION OF APPROPRIATIONS.**—For the
16 purposes of this section, there are authorized to be appro-
17 priated to the Secretary of Energy \$10,000,000 for each
18 of fiscal years 2006 through 2010.

19 **SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

20 (a) **INCENTIVE PAYMENTS.**—Section 1212(a) of the
21 Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is
22 amended by striking “and which satisfies” and all that
23 follows through “Secretary shall establish.” and inserting
24 “ . If there are insufficient appropriations to make full pay-
25 ments for electric production from all qualified renewable



1 energy facilities in any given year, the Secretary shall as-
2 sign 60 percent of appropriated funds for that year to fa-
3 cilities that use solar, wind, geothermal, or closed-loop
4 (dedicated energy crops) biomass technologies to generate
5 electricity, and assign the remaining 40 percent to other
6 projects. The Secretary may, after transmitting to Con-
7 gress an explanation of the reasons therefor, alter the per-
8 centage requirements of the preceding sentence.”.

9 (b) QUALIFIED RENEWABLE ENERGY FACILITY.—
10 Section 1212(b) of the Energy Policy Act of 1992 (42
11 U.S.C. 13317(b)) is amended—

12 (1) by striking “a State or any political” and
13 all that follows through “nonprofit electrical cooper-
14 ative” and inserting “a not-for-profit electric cooper-
15 ative, a public utility described in section 115 of the
16 Internal Revenue Code of 1986, a State, Common-
17 wealth, territory, or possession of the United States
18 or the District of Columbia, or a political subdivision
19 thereof, or an Indian tribal government or subdivi-
20 sion thereof,”; and

21 (2) by inserting “landfill gas,” after “wind, bio-
22 mass,”.

23 (c) ELIGIBILITY WINDOW.—Section 1212(c) of the
24 Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is
25 amended by striking “during the 10-fiscal year period be-



1 ginning with the first full fiscal year occurring after the
2 enactment of this section” and inserting “after October
3 1, 2005, and before October 1, 2015”.

4 (d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of
5 the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1))
6 is amended by inserting “landfill gas,” after “wind, bio-
7 mass,”.

8 (e) SUNSET.—Section 1212(f) of the Energy Policy
9 Act of 1992 (42 U.S.C. 13317(f)) is amended by striking
10 “the expiration of” and all that follows through “of this
11 section” and inserting “September 30, 2025”.

12 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
13 1212(g) of the Energy Policy Act of 1992 (42 U.S.C.
14 13317(g)) is amended to read as follows:

15 “(g) AUTHORIZATION OF APPROPRIATIONS.—

16 “(1) IN GENERAL.—Subject to paragraph (2),
17 there are authorized to be appropriated such sums
18 as may be necessary to carry out this section for fis-
19 cal years 2005 through 2025.

20 “(2) AVAILABILITY OF FUNDS.—Funds made
21 available under paragraph (1) shall remain available
22 until expended.”.

23 **SEC. 203. FEDERAL PURCHASE REQUIREMENT.**

24 (a) REQUIREMENT.—The President, acting through
25 the Secretary of Energy, shall seek to ensure that, to the



1 extent economically feasible and technically practicable, of
2 the total amount of electric energy the Federal Govern-
3 ment consumes during any fiscal year, the following
4 amounts shall be renewable energy:

5 (1) Not less than 3 percent in fiscal years 2007
6 through 2009.

7 (2) Not less than 5 percent in fiscal years 2010
8 through 2012.

9 (3) Not less than 7.5 percent in fiscal year
10 2013 and each fiscal year thereafter.

11 (b) DEFINITIONS.—In this section:

12 (1) BIOMASS.—The term “biomass” means any
13 solid, nonhazardous, cellulosic material that is de-
14 rived from—

15 (A) any of the following forest-related re-
16 sources: mill residues, precommercial thinnings,
17 slash, and brush, or nonmerchantable material;

18 (B) solid wood waste materials, including
19 waste pallets, crates, dunnage, manufacturing
20 and construction wood wastes (other than pres-
21 sure-treated, chemically-treated, or painted
22 wood wastes), and landscape or right-of-way
23 tree trimmings, but not including municipal
24 solid waste (garbage), gas derived from the bio-



1 degradation of solid waste, or paper that is
2 commonly recycled;

3 (C) agriculture wastes, including orchard
4 tree crops, vineyard, grain, legumes, sugar, and
5 other crop by-products or residues, and live-
6 stock waste nutrients; or

7 (D) a plant that is grown exclusively as a
8 fuel for the production of electricity.

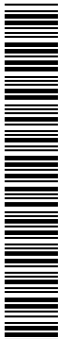
9 (2) RENEWABLE ENERGY.—The term “renew-
10 able energy” means electric energy generated from
11 solar, wind, biomass, landfill gas, geothermal, munic-
12 ipal solid waste, or new hydroelectric generation ca-
13 pacity achieved from increased efficiency or addi-
14 tions of new capacity at an existing hydroelectric
15 project.

16 (c) CALCULATION.—For purposes of determining
17 compliance with the requirement of this section, the
18 amount of renewable energy shall be doubled if—

19 (1) the renewable energy is produced and used
20 on-site at a Federal facility;

21 (2) the renewable energy is produced on Fed-
22 eral lands and used at a Federal facility; or

23 (3) the renewable energy is produced on Indian
24 land as defined in title XXVI of the Energy Policy



1 Act of 1992 (25 U.S.C. 3501 et. seq.) and used at
2 a Federal facility.

3 (d) REPORT.—Not later than April 15, 2007, and
4 every 2 years thereafter, the Secretary of Energy shall
5 provide a report to Congress on the progress of the Fed-
6 eral Government in meeting the goals established by this
7 section.

8 **SEC. 204. INSULAR AREAS ENERGY SECURITY.**

9 Section 604 of the Act entitled “An Act to authorize
10 appropriations for certain insular areas of the United
11 States, and for other purposes”, approved December 24,
12 1980 (48 U.S.C. 1492), is amended—

13 (1) in subsection (a)(4) by striking the period
14 and inserting a semicolon;

15 (2) by adding at the end of subsection (a) the
16 following new paragraphs:

17 “(5) electric power transmission and distribu-
18 tion lines in insular areas are inadequate to with-
19 stand damage caused by the hurricanes and ty-
20 phoons which frequently occur in insular areas and
21 such damage often costs millions of dollars to repair;
22 and

23 “(6) the refinement of renewable energy tech-
24 nologies since the publication of the 1982 Territorial
25 Energy Assessment prepared pursuant to subsection



1 (c) reveals the need to reassess the state of energy
2 production, consumption, infrastructure, reliance on
3 imported energy, opportunities for energy conserva-
4 tion and increased energy efficiency, and indigenous
5 sources in regard to the insular areas.”;

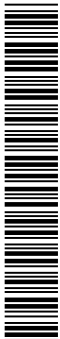
6 (3) by amending subsection (e) to read as fol-
7 lows:

8 “(e)(1) The Secretary of the Interior, in consultation
9 with the Secretary of Energy and the head of government
10 of each insular area, shall update the plans required under
11 subsection (c) by—

12 “(A) updating the contents required by sub-
13 section (c);

14 “(B) drafting long-term energy plans for such
15 insular areas with the objective of reducing, to the
16 extent feasible, their reliance on energy imports by
17 the year 2012, increasing energy conservation and
18 energy efficiency, and maximizing, to the extent fea-
19 sible, use of indigenous energy sources; and

20 “(C) drafting long-term energy transmission
21 line plans for such insular areas with the objective
22 that the maximum percentage feasible of electric
23 power transmission and distribution lines in each in-
24 sular area be protected from damage caused by hur-
25 ricanes and typhoons.



1 “(2) Not later than December 31, 2007, the Sec-
2 retary of the Interior shall submit to Congress the updated
3 plans for each insular area required by this subsection.”;
4 and

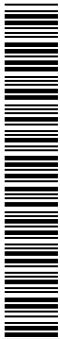
5 (4) by amending subsection (g)(4) to read as
6 follows:

7 “(4) POWER LINE GRANTS FOR INSULAR
8 AREAS.—

9 “(A) IN GENERAL.—The Secretary of the
10 Interior is authorized to make grants to govern-
11 ments of insular areas of the United States to
12 carry out eligible projects to protect electric
13 power transmission and distribution lines in
14 such insular areas from damage caused by hur-
15 ricanes and typhoons.

16 “(B) ELIGIBLE PROJECTS.—The Secretary
17 may award grants under subparagraph (A) only
18 to governments of insular areas of the United
19 States that submit written project plans to the
20 Secretary for projects that meet the following
21 criteria:

22 “(i) The project is designed to protect
23 electric power transmission and distribu-
24 tion lines located in 1 or more of the insu-



1 lar areas of the United States from dam-
2 age caused by hurricanes and typhoons.

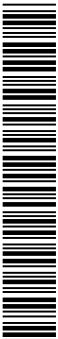
3 “(ii) The project is likely to substan-
4 tially reduce the risk of future damage,
5 hardship, loss, or suffering.

6 “(iii) The project addresses 1 or more
7 problems that have been repetitive or that
8 pose a significant risk to public health and
9 safety.

10 “(iv) The project is not likely to cost
11 more than the value of the reduction in di-
12 rect damage and other negative impacts
13 that the project is designed to prevent or
14 mitigate. The cost benefit analysis required
15 by this criterion shall be computed on a
16 net present value basis.

17 “(v) The project design has taken into
18 consideration long-term changes to the
19 areas and persons it is designed to protect
20 and has manageable future maintenance
21 and modification requirements.

22 “(vi) The project plan includes an
23 analysis of a range of options to address
24 the problem it is designed to prevent or



1 mitigate and a justification for the selec-
2 tion of the project in light of that analysis.

3 “(vii) The applicant has demonstrated
4 to the Secretary that the matching funds
5 required by subparagraph (D) are avail-
6 able.

7 “(C) PRIORITY.—When making grants
8 under this paragraph, the Secretary shall give
9 priority to grants for projects which are likely
10 to—

11 “(i) have the greatest impact on re-
12 ducing future disaster losses; and

13 “(ii) best conform with plans that
14 have been approved by the Federal Govern-
15 ment or the government of the insular area
16 where the project is to be carried out for
17 development or hazard mitigation for that
18 insular area.

19 “(D) MATCHING REQUIREMENT.—The
20 Federal share of the cost for a project for which
21 a grant is provided under this paragraph shall
22 not exceed 75 percent of the total cost of that
23 project. The non-Federal share of the cost may
24 be provided in the form of cash or services.



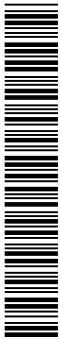
1 “(E) TREATMENT OF FUNDS FOR CERTAIN
2 PURPOSES.—Grants provided under this para-
3 graph shall not be considered as income, a re-
4 source, or a duplicative program when deter-
5 mining eligibility or benefit levels for Federal
6 major disaster and emergency assistance.

7 “(F) AUTHORIZATION OF APPROPRIA-
8 TIONS.—There are authorized to be appro-
9 priated to carry out this paragraph \$5,000,000
10 for each fiscal year beginning after the date of
11 the enactment of this paragraph.”.

12 **SEC. 206. GRANTS TO IMPROVE THE COMMERCIAL VALUE**
13 **OF FOREST BIOMASS FOR ELECTRIC ENERGY,**
14 **USEFUL HEAT, TRANSPORTATION FUELS, PE-**
15 **TROLEUM-BASED PRODUCT SUBSTITUTES,**
16 **AND OTHER COMMERCIAL PURPOSES.**

17 (a) FINDINGS.—Congress finds the following:

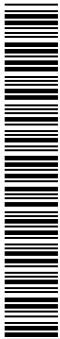
18 (1) Thousands of communities in the United
19 States, many located near Federal lands, are at risk
20 to wildfire. Approximately 190,000,000 acres of land
21 managed by the Secretary of Agriculture and the
22 Secretary of the Interior are at risk of catastrophic
23 fire in the near future. The accumulation of heavy
24 forest fuel loads continues to increase as a result of



1 disease, insect infestations, and drought, further
2 raising the risk of fire each year.

3 (2) In addition, more than 70,000,000 acres
4 across all land ownerships are at risk to higher than
5 normal mortality over the next 15 years from insect
6 infestation and disease. High levels of tree mortality
7 from insects and disease result in increased fire risk,
8 loss of old growth, degraded watershed conditions,
9 and changes in species diversity and productivity, as
10 well as diminished fish and wildlife habitat and de-
11 creased timber values.

12 (3) Preventive treatments such as removing fuel
13 loading, ladder fuels, and hazard trees, planting
14 proper species mix and restoring and protecting
15 early successional habitat, and other specific restora-
16 tion treatments designed to reduce the susceptibility
17 of forest land, woodland, and rangeland to insect
18 outbreaks, disease, and catastrophic fire present the
19 greatest opportunity for long-term forest health by
20 creating a mosaic of species-mix and age distribu-
21 tion. Such prevention treatments are widely acknowl-
22 edged to be more successful and cost effective than
23 suppression treatments in the case of insects, dis-
24 ease, and fire.



1 (4) The byproducts of preventive treatment
2 (wood, brush, thinnings, chips, slash, and other haz-
3 ardous fuels) removed from forest lands, woodlands
4 and rangelands represent an abundant supply of bio-
5 mass for biomass-to-energy facilities and raw mate-
6 rial for business. There are currently few markets
7 for the extraordinary volumes of byproducts being
8 generated as a result of the necessary large-scale
9 preventive treatment activities.

10 (5) The United States should—

11 (A) promote economic and entrepreneurial
12 opportunities in using byproducts removed
13 through preventive treatment activities related
14 to hazardous fuels reduction, disease, and insect
15 infestation; and

16 (B) develop and expand markets for tradi-
17 tionally underused wood and biomass as an out-
18 let for byproducts of preventive treatment ac-
19 tivities.

20 (b) DEFINITIONS.—In this section:

21 (1) BIOMASS.—The term “biomass” means
22 trees and woody plants, including limbs, tops, nee-
23 dles, and other woody parts, and byproducts of pre-
24 ventive treatment, such as wood, brush, thinnings,
25 chips, and slash, that are removed—



1 (A) to reduce hazardous fuels; or

2 (B) to reduce the risk of or to contain dis-
3 ease or insect infestation.

4 (2) INDIAN TRIBE.—The term “Indian tribe”
5 has the meaning given the term in section 4(e) of
6 the Indian Self-Determination and Education Assist-
7 ance Act (25 U.S.C. 450b(e)).

8 (3) PERSON.—The term “person” includes—

9 (A) an individual;

10 (B) a community (as determined by the
11 Secretary concerned);

12 (C) an Indian tribe;

13 (D) a small business, micro-business, or a
14 corporation that is incorporated in the United
15 States; and

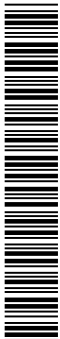
16 (E) a nonprofit organization.

17 (4) PREFERRED COMMUNITY.—The term “pre-
18 ferred community” means—

19 (A) any town, township, municipality, or
20 other similar unit of local government (as deter-
21 mined by the Secretary concerned) that—

22 (i) has a population of not more than
23 50,000 individuals; and

24 (ii) the Secretary concerned, in the
25 sole discretion of the Secretary concerned,



1 determines contains or is located near
2 land, the condition of which is at signifi-
3 cant risk of catastrophic wildfire, disease,
4 or insect infestation or which suffers from
5 disease or insect infestation; or

6 (B) any county that—

7 (i) is not contained within a metro-
8 politan statistical area; and

9 (ii) the Secretary concerned, in the
10 sole discretion of the Secretary concerned,
11 determines contains or is located near
12 land, the condition of which is at signifi-
13 cant risk of catastrophic wildfire, disease,
14 or insect infestation or which suffers from
15 disease or insect infestation.

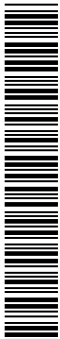
16 (5) SECRETARY CONCERNED.—The term “Sec-
17 retary concerned” means—

18 (A) the Secretary of Agriculture with re-
19 spect to National Forest System lands; and

20 (B) the Secretary of the Interior with re-
21 spect to Federal lands under the jurisdiction of
22 the Secretary of the Interior and Indian lands.

23 (c) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

24 (1) IN GENERAL.—The Secretary concerned
25 may make grants to any person that owns or oper-



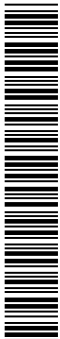
1 ates a facility that uses biomass as a raw material
2 to produce electric energy, sensible heat, transpor-
3 tation fuels, or substitutes for petroleum-based prod-
4 ucts to offset the costs incurred to purchase biomass
5 for use by such facility.

6 (2) GRANT AMOUNTS.—A grant under this sub-
7 section may not exceed \$20 per green ton of biomass
8 delivered.

9 (3) MONITORING OF GRANT RECIPIENT ACTIVI-
10 TIES.—As a condition of a grant under this sub-
11 section, the grant recipient shall keep such records
12 as the Secretary concerned may require to fully and
13 correctly disclose the use of the grant funds and all
14 transactions involved in the purchase of biomass.
15 Upon notice by a representative of the Secretary
16 concerned, the grant recipient shall afford the rep-
17 resentative reasonable access to the facility that pur-
18 chases or uses biomass and an opportunity to exam-
19 ine the inventory and records of the facility.

20 (d) IMPROVED BIOMASS USE GRANT PROGRAM.—

21 (1) IN GENERAL.—The Secretary concerned
22 may make grants to persons to offset the cost of
23 projects to develop or research opportunities to im-
24 prove the use of, or add value to, biomass. In mak-



1 ing such grants, the Secretary concerned shall give
2 preference to persons in preferred communities.

3 (2) SELECTION.—The Secretary concerned shall
4 select a grant recipient under paragraph (1) after
5 giving consideration to the anticipated public bene-
6 fits of the project, including the potential to develop
7 thermal or electric energy resources or affordable en-
8 ergy, opportunities for the creation or expansion of
9 small businesses and micro-businesses, and the po-
10 tential for new job creation.

11 (3) GRANT AMOUNT.—A grant under this sub-
12 section may not exceed \$500,000.

13 (e) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated \$50,000,000 for each
15 of the fiscal years 2006 through 2016 to carry out this
16 section.

17 (f) REPORT.—Not later than October 1, 2012, the
18 Secretary of Agriculture, in consultation with the Sec-
19 retary of the Interior, shall submit to the Committee on
20 Energy and Natural Resources and the Committee on Ag-
21 riculture, Nutrition, and Forestry of the Senate and the
22 Committee on Resources, the Committee on Energy and
23 Commerce, and the Committee on Agriculture of the
24 House of Representatives a report describing the results



1 of the grant programs authorized by this section. The re-
2 port shall include the following:

3 (1) An identification of the size, type, and the
4 use of biomass by persons that receive grants under
5 this section.

6 (2) The distance between the land from which
7 the biomass was removed and the facility that used
8 the biomass.

9 (3) The economic impacts, particularly new job
10 creation, resulting from the grants to and operation
11 of the eligible operations.

12 **SEC. 207. BIOBASED PRODUCTS.**

13 Section 9002(c)(1) of the Farm Security and Rural
14 Investment Act of 2002 (7 U.S.C. 8102(c)(1)) is amended
15 by inserting “or such items that comply with the regula-
16 tions issued under section 103 of Public Law 100–556 (42
17 U.S.C. 6914b–1)” after “practicable”.

18 **SEC. 208. RENEWABLE ENERGY SECURITY.**

19 (a) WEATHERIZATION ASSISTANCE.—Section 415(c)
20 of the Energy Conservation and Production Act (42
21 U.S.C. 6865(c)) is amended—

22 (1) in paragraph (1), by striking “in paragraph
23 (3)” and inserting “in paragraphs (3) and (4)”;

24 (2) in paragraph (3), by striking “\$2,500 per
25 dwelling unit average provided in paragraph (1)”



1 and inserting “dwelling unit averages provided in
2 paragraphs (1) and (4)”;

3 (3) by adding at the end the following new
4 paragraphs:

5 “(4) The expenditure of financial assistance provided
6 under this part for labor, weatherization materials, and
7 related matters for a renewable energy system shall not
8 exceed an average of \$3,000 per dwelling unit.

9 “(5)(A) The Secretary shall by regulations—

10 “(i) establish the criteria which are to be used
11 in prescribing performance and quality standards
12 under paragraph (6)(A)(ii) or in specifying any form
13 of renewable energy under paragraph (6)(A)(i)(I);
14 and

15 “(ii) establish a procedure under which a manu-
16 facturer of an item may request the Secretary to
17 certify that the item will be treated, for purposes of
18 this paragraph, as a renewable energy system.

19 “(B) The Secretary shall make a final determination
20 with respect to any request filed under subparagraph
21 (A)(ii) within 1 year after the filing of the request, to-
22 gether with any information required to be filed with such
23 request under subparagraph (A)(ii).

24 “(C) Each month the Secretary shall publish a report
25 of any request under subparagraph (A)(ii) which has been



1 denied during the preceding month and the reasons for
2 the denial.

3 “(D) The Secretary shall not specify any form of re-
4 newable energy under paragraph (6)(A)(i)(I) unless the
5 Secretary determines that—

6 “(i) there will be a reduction in oil or natural
7 gas consumption as a result of such specification;

8 “(ii) such specification will not result in an in-
9 creased use of any item which is known to be, or
10 reasonably suspected to be, environmentally haz-
11 ardous or a threat to public health or safety; and

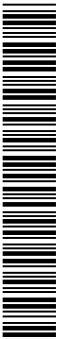
12 “(iii) available Federal subsidies do not make
13 such specification unnecessary or inappropriate (in
14 the light of the most advantageous allocation of eco-
15 nomic resources).

16 “(6) In this subsection—

17 “(A) the term ‘renewable energy system’ means
18 a system which—

19 “(i) when installed in connection with a
20 dwelling, transmits or uses—

21 “(I) solar energy, energy derived from
22 the geothermal deposits, energy derived
23 from biomass, or any other form of renew-
24 able energy which the Secretary specifies
25 by regulations, for the purpose of heating



1 or cooling such dwelling or providing hot
2 water or electricity for use within such
3 dwelling; or

4 “(II) wind energy for nonbusiness res-
5 idential purposes;

6 “(ii) meets the performance and quality
7 standards (if any) which have been prescribed
8 by the Secretary by regulations;

9 “(iii) in the case of a combustion rated
10 system, has a thermal efficiency rating of at
11 least 75 percent; and

12 “(iv) in the case of a solar system, has a
13 thermal efficiency rating of at least 15 percent;
14 and

15 “(B) the term ‘biomass’ means any organic
16 matter that is available on a renewable or recurring
17 basis, including agricultural crops and trees, wood
18 and wood wastes and residues, plants (including
19 aquatic plants), grasses, residues, fibers, and animal
20 wastes, municipal wastes, and other waste mate-
21 rials.”.

22 (b) DISTRICT HEATING AND COOLING PROGRAMS.—
23 Section 172 of the Energy Policy Act of 1992 (42 U.S.C.
24 13451 note) is amended—

25 (1) in subsection (a)—



1 (A) by striking “and” at the end of para-
2 graph (3);

3 (B) by striking the period at the end of
4 paragraph (4) and inserting “; and”; and

5 (C) by adding at the end the following new
6 paragraph:

7 “(5) evaluate the use of renewable energy sys-
8 tems (as such term is defined in section 415(c) of
9 the Energy Conservation and Production Act (42
10 U.S.C. 6865(c))) in residential buildings.”; and

11 (2) in subsection (b), by striking “this Act” and
12 inserting “the Energy Policy Act of 2005”.

13 (c) DEFINITION OF BIOMASS.—Section 203(2) of the
14 Biomass Energy and Alcohol Fuels Act of 1980 (42
15 U.S.C. 8802(2)) is amended to read as follows:

16 “(2) The term ‘biomass’ means any organic
17 matter that is available on a renewable or recurring
18 basis, including agricultural crops and trees, wood
19 and wood wastes and residues, plants (including
20 aquatic plants), grasses, residues, fibers, and animal
21 wastes, municipal wastes, and other waste mate-
22 rials.”.

23 (d) REBATE PROGRAM.—

24 (1) ESTABLISHMENT.—The Secretary of En-
25 ergy shall establish a program providing rebates for



1 consumers for expenditures made for the installation
2 of a renewable energy system in connection with a
3 dwelling unit or small business.

4 (2) AMOUNT OF REBATE.—Rebates provided
5 under the program established under paragraph (1)
6 shall be in an amount not to exceed the lesser of—

7 (A) 25 percent of the expenditures de-
8 scribed in paragraph (1) made by the con-
9 sumer; or

10 (B) \$3,000.

11 (3) DEFINITION.—For purposes of this sub-
12 section, the term “renewable energy system” has the
13 meaning given that term in section 415(c)(6)(A) of
14 the Energy Conservation and Production Act (42
15 U.S.C. 6865(c)(6)(A)), as added by subsection
16 (a)(3) of this section.

17 (4) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated to the Sec-
19 retary of Energy for carrying out this subsection, to
20 remain available until expended—

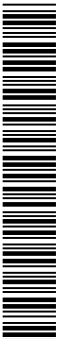
21 (A) \$150,000,000 for fiscal year 2006;

22 (B) \$150,000,000 for fiscal year 2007;

23 (C) \$200,000,000 for fiscal year 2008;

24 (D) \$250,000,000 for fiscal year 2009;

25 and



1 (E) \$250,000,000 for fiscal year 2010.

2 (e) RENEWABLE FUEL INVENTORY.—Not later than
3 180 days after the date of enactment of this Act, the Sec-
4 retary of Energy shall transmit to Congress a report
5 containing—

6 (1) an inventory of renewable fuels available for
7 consumers; and

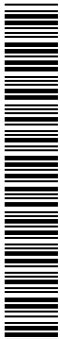
8 (2) a projection of future inventories of renew-
9 able fuels based on the incentives provided in this
10 section

11 **Subtitle C—Hydroelectric**

12 **PART I—ALTERNATIVE CONDITIONS**

13 **SEC. 231. ALTERNATIVE CONDITIONS AND FISHWAYS.**

14 (a) FEDERAL RESERVATIONS.—Section 4(e) of the
15 Federal Power Act (16 U.S.C. 797(e)) is amended by in-
16 serting after “adequate protection and utilization of such
17 reservation.” at the end of the first proviso the following:
18 “The license applicant shall be entitled to a determination
19 on the record, after opportunity for an expedited agency
20 trial-type hearing of any disputed issues of material fact,
21 with respect to such conditions. Such hearing may be con-
22 ducted in accordance with procedures established by agen-
23 cy regulation in consultation with the Federal Energy
24 Regulatory Commission.”.



1 (b) FISHWAYS.—Section 18 of the Federal Power Act
2 (16 U.S.C. 811) is amended by inserting after “and such
3 fishways as may be prescribed by the Secretary of Com-
4 merce.” the following: “The license applicant shall be enti-
5 tled to a determination on the record, after opportunity
6 for an expedited agency trial-type hearing of any disputed
7 issues of material fact, with respect to such fishways. Such
8 hearing may be conducted in accordance with procedures
9 established by agency regulation in consultation with the
10 Federal Energy Regulatory Commission.”.

11 (c) ALTERNATIVE CONDITIONS AND PRESCRIP-
12 TIONS.—Part I of the Federal Power Act (16 U.S.C. 791a
13 et seq.) is amended by adding the following new section
14 at the end thereof:

15 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

16 “(a) ALTERNATIVE CONDITIONS.—(1) Whenever any
17 person applies for a license for any project works within
18 any reservation of the United States, and the Secretary
19 of the department under whose supervision such reserva-
20 tion falls (referred to in this subsection as ‘the Secretary’)
21 deems a condition to such license to be necessary under
22 the first proviso of section 4(e), the license applicant may
23 propose an alternative condition.

24 “(2) Notwithstanding the first proviso of section 4(e),
25 the Secretary shall accept the proposed alternative condi-



1 tion referred to in paragraph (1), and the Commission
2 shall include in the license such alternative condition, if
3 the Secretary determines, based on substantial evidence
4 provided by the license applicant or otherwise available to
5 the Secretary, that such alternative condition—

6 “(A) provides for the adequate protection and
7 utilization of the reservation; and

8 “(B) will either—

9 “(i) cost less to implement; or

10 “(ii) result in improved operation of the
11 project works for electricity production,

12 as compared to the condition initially deemed nec-
13 essary by the Secretary.

14 “(3) The Secretary shall submit into the public
15 record of the Commission proceeding with any condition
16 under section 4(e) or alternative condition it accepts under
17 this section, a written statement explaining the basis for
18 such condition, and reason for not accepting any alter-
19 native condition under this section. The written statement
20 must demonstrate that the Secretary gave equal consider-
21 ation to the effects of the condition adopted and alter-
22 natives not accepted on energy supply, distribution, cost,
23 and use; flood control; navigation; water supply; and air
24 quality (in addition to the preservation of other aspects
25 of environmental quality); based on such information as



1 may be available to the Secretary, including information
2 voluntarily provided in a timely manner by the applicant
3 and others. The Secretary shall also submit, together with
4 the aforementioned written statement, all studies, data,
5 and other factual information available to the Secretary
6 and relevant to the Secretary's decision.

7 “(4) Nothing in this section shall prohibit other inter-
8 ested parties from proposing alternative conditions.

9 “(5) If the Secretary does not accept an applicant's
10 alternative condition under this section, and the Commis-
11 sion finds that the Secretary's condition would be incon-
12 sistent with the purposes of this part, or other applicable
13 law, the Commission may refer the dispute to the Commis-
14 sion's Dispute Resolution Service. The Dispute Resolution
15 Service shall consult with the Secretary and the Commis-
16 sion and issue a non-binding advisory within 90 days. The
17 Secretary may accept the Dispute Resolution Service advi-
18 sory unless the Secretary finds that the recommendation
19 will not provide for the adequate protection and utilization
20 of the reservation. The Secretary shall submit the advisory
21 and the Secretary's final written determination into the
22 record of the Commission's proceeding.

23 “(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever
24 the Secretary of the Interior or the Secretary of Commerce
25 prescribes a fishway under section 18, the license appli-



1 cant or licensee may propose an alternative to such pre-
2 scription to construct, maintain, or operate a fishway.

3 “(2) Notwithstanding section 18, the Secretary of the
4 Interior or the Secretary of Commerce, as appropriate,
5 shall accept and prescribe, and the Commission shall re-
6 quire, the proposed alternative referred to in paragraph
7 (1), if the Secretary of the appropriate department deter-
8 mines, based on substantial evidence provided by the li-
9 censee or otherwise available to the Secretary, that such
10 alternative—

11 “(A) will be no less protective than the fishway
12 initially prescribed by the Secretary; and

13 “(B) will either—

14 “(i) cost less to implement; or

15 “(ii) result in improved operation of the
16 project works for electricity production,
17 as compared to the fishway initially deemed nec-
18 essary by the Secretary.

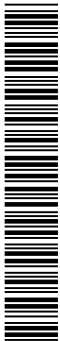
19 “(3) The Secretary concerned shall submit into the
20 public record of the Commission proceeding with any pre-
21 scription under section 18 or alternative prescription it ac-
22 cepts under this section, a written statement explaining
23 the basis for such prescription, and reason for not accept-
24 ing any alternative prescription under this section. The
25 written statement must demonstrate that the Secretary



1 gave equal consideration to the effects of the condition
2 adopted and alternatives not accepted on energy supply,
3 distribution, cost, and use; flood control; navigation; water
4 supply; and air quality (in addition to the preservation of
5 other aspects of environmental quality); based on such in-
6 formation as may be available to the Secretary, including
7 information voluntarily provided in a timely manner by the
8 applicant and others. The Secretary shall also submit, to-
9 gether with the aforementioned written statement, all
10 studies, data, and other factual information available to
11 the Secretary and relevant to the Secretary's decision.

12 “(4) Nothing in this section shall prohibit other inter-
13 ested parties from proposing alternative prescriptions.

14 “(5) If the Secretary concerned does not accept an
15 applicant's alternative prescription under this section, and
16 the Commission finds that the Secretary's prescription
17 would be inconsistent with the purposes of this part, or
18 other applicable law, the Commission may refer the dis-
19 pute to the Commission's Dispute Resolution Service. The
20 Dispute Resolution Service shall consult with the Sec-
21 retary and the Commission and issue a non-binding advi-
22 sory within 90 days. The Secretary may accept the Dis-
23 pute Resolution Service advisory unless the Secretary
24 finds that the recommendation will be less protective than
25 the fishway initially prescribed by the Secretary. The Sec-



1 retary shall submit the advisory and the Secretary's final
2 written determination into the record of the Commission's
3 proceeding.".

4 **PART II—ADDITIONAL HYDROPOWER**

5 **SEC. 241. HYDROELECTRIC PRODUCTION INCENTIVES.**

6 (a) INCENTIVE PAYMENTS.—For electric energy gen-
7 erated and sold by a qualified hydroelectric facility during
8 the incentive period, the Secretary of Energy (referred to
9 in this section as the "Secretary") shall make, subject to
10 the availability of appropriations, incentive payments to
11 the owner or operator of such facility. The amount of such
12 payment made to any such owner or operator shall be as
13 determined under subsection (e) of this section. Payments
14 under this section may only be made upon receipt by the
15 Secretary of an incentive payment application which estab-
16 lishes that the applicant is eligible to receive such payment
17 and which satisfies such other requirements as the Sec-
18 retary deems necessary. Such application shall be in such
19 form, and shall be submitted at such time, as the Sec-
20 retary shall establish.

21 (b) DEFINITIONS.—For purposes of this section:

22 (1) QUALIFIED HYDROELECTRIC FACILITY.—
23 The term "qualified hydroelectric facility" means a
24 turbine or other generating device owned or solely
25 operated by a non-Federal entity which generates



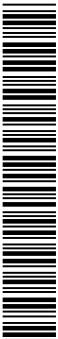
1 hydroelectric energy for sale and which is added to
2 an existing dam or conduit.

3 (2) EXISTING DAM OR CONDUIT.—The term
4 “existing dam or conduit” means any dam or con-
5 duit the construction of which was completed before
6 the date of the enactment of this section and which
7 does not require any construction or enlargement of
8 impoundment or diversion structures (other than re-
9 pair or reconstruction) in connection with the instal-
10 lation of a turbine or other generating device.

11 (3) CONDUIT.—The term “conduit” has the
12 same meaning as when used in section 30(a)(2) of
13 the Federal Power Act (16 U.S.C. 823a(a)(2)).

14 The terms defined in this subsection shall apply without
15 regard to the hydroelectric kilowatt capacity of the facility
16 concerned, without regard to whether the facility uses a
17 dam owned by a governmental or nongovernmental entity,
18 and without regard to whether the facility begins oper-
19 ation on or after the date of the enactment of this section.

20 (c) ELIGIBILITY WINDOW.—Payments may be made
21 under this section only for electric energy generated from
22 a qualified hydroelectric facility which begins operation
23 during the period of 10 fiscal years beginning with the
24 first full fiscal year occurring after the date of enactment
25 of this subtitle.

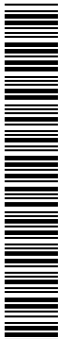


1 (d) INCENTIVE PERIOD.—A qualified hydroelectric
2 facility may receive payments under this section for a pe-
3 riod of 10 fiscal years (referred to in this section as the
4 “incentive period”). Such period shall begin with the fiscal
5 year in which electric energy generated from the facility
6 is first eligible for such payments.

7 (e) AMOUNT OF PAYMENT.—

8 (1) IN GENERAL.—Payments made by the Sec-
9 retary under this section to the owner or operator of
10 a qualified hydroelectric facility shall be based on
11 the number of kilowatt hours of hydroelectric energy
12 generated by the facility during the incentive period.
13 For any such facility, the amount of such payment
14 shall be 1.8 cents per kilowatt hour (adjusted as
15 provided in paragraph (2)), subject to the avail-
16 ability of appropriations under subsection (g), except
17 that no facility may receive more than \$750,000 in
18 1 calendar year.

19 (2) ADJUSTMENTS.—The amount of the pay-
20 ment made to any person under this section as pro-
21 vided in paragraph (1) shall be adjusted for inflation
22 for each fiscal year beginning after calendar year
23 2005 in the same manner as provided in the provi-
24 sions of section 29(d)(2)(B) of the Internal Revenue
25 Code of 1986, except that in applying such provi-



1 sions the calendar year 2005 shall be substituted for
2 calendar year 1979.

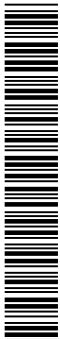
3 (f) SUNSET.—No payment may be made under this
4 section to any qualified hydroelectric facility after the ex-
5 piration of the period of 20 fiscal years beginning with
6 the first full fiscal year occurring after the date of enact-
7 ment of this subtitle, and no payment may be made under
8 this section to any such facility after a payment has been
9 made with respect to such facility for a period of 10 fiscal
10 years.

11 (g) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary to carry
13 out the purposes of this section \$10,000,000 for each of
14 the fiscal years 2006 through 2015.

15 **SEC. 242. HYDROELECTRIC EFFICIENCY IMPROVEMENT.**

16 (a) INCENTIVE PAYMENTS.—The Secretary of En-
17 ergy shall make incentive payments to the owners or oper-
18 ators of hydroelectric facilities at existing dams to be used
19 to make capital improvements in the facilities that are di-
20 rectly related to improving the efficiency of such facilities
21 by at least 3 percent.

22 (b) LIMITATIONS.—Incentive payments under this
23 section shall not exceed 10 percent of the costs of the cap-
24 ital improvement concerned and not more than 1 payment
25 may be made with respect to improvements at a single



1 facility. No payment in excess of \$750,000 may be made
2 with respect to improvements at a single facility.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 not more than \$10,000,000 for each of the fiscal years
6 2006 through 2015.

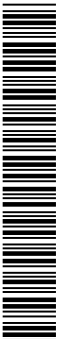
7 **SEC. 243. SMALL HYDROELECTRIC POWER PROJECTS.**

8 Section 408(a)(6) of the Public Utility Regulatory
9 Policies Act of 1978 (16 U.S.C. 2708(a)(6)) is amended
10 by striking “April 20, 1977” and inserting “March 4,
11 2003”.

12 **SEC. 244. INCREASED HYDROELECTRIC GENERATION AT**
13 **EXISTING FEDERAL FACILITIES.**

14 (a) IN GENERAL.—The Secretary of the Interior and
15 the Secretary of Energy, in consultation with the Sec-
16 retary of the Army, shall jointly conduct a study of the
17 potential for increasing electric power production capa-
18 bility at federally owned or operated water regulation,
19 storage, and conveyance facilities.

20 (b) CONTENT.—The study under this section shall in-
21 clude identification and description in detail of each facil-
22 ity that is capable, with or without modification, of pro-
23 ducing additional hydroelectric power, including esti-
24 mation of the existing potential for the facility to generate
25 hydroelectric power.



1 (c) REPORT.—The Secretaries shall submit to the
2 Committees on Energy and Commerce, Resources, and
3 Transportation and Infrastructure of the House of Rep-
4 resentatives and the Committee on Energy and Natural
5 Resources of the Senate a report on the findings, conclu-
6 sions, and recommendations of the study under this sec-
7 tion by not later than 18 months after the date of the
8 enactment of this Act. The report shall include each of
9 the following:

10 (1) The identifications, descriptions, and esti-
11 mations referred to in subsection (b).

12 (2) A description of activities currently con-
13 ducted or considered, or that could be considered, to
14 produce additional hydroelectric power from each
15 identified facility.

16 (3) A summary of prior actions taken by the
17 Secretaries to produce additional hydroelectric power
18 from each identified facility.

19 (4) The costs to install, upgrade, or modify
20 equipment or take other actions to produce addi-
21 tional hydroelectric power from each identified facil-
22 ity and the level of Federal power customer involve-
23 ment in the determination of such costs.

24 (5) The benefits that would be achieved by such
25 installation, upgrade, modification, or other action,



1 including quantified estimates of any additional en-
2 ergy or capacity from each facility identified under
3 subsection (b).

4 (6) A description of actions that are planned,
5 underway, or might reasonably be considered to in-
6 crease hydroelectric power production by replacing
7 turbine runners, by performing generator upgrades
8 or rewinds, or construction of pumped storage facili-
9 ties.

10 (7) The impact of increased hydroelectric power
11 production on irrigation, fish, wildlife, Indian tribes,
12 river health, water quality, navigation, recreation,
13 fishing, and flood control.

14 (8) Any additional recommendations to increase
15 hydroelectric power production from, and reduce
16 costs and improve efficiency at, federally owned or
17 operated water regulation, storage, and conveyance
18 facilities.

19 **SEC. 245. SHIFT OF PROJECT LOADS TO OFF-PEAK PERI-**
20 **ODS.**

21 (a) IN GENERAL.—The Secretary of the Interior
22 shall—

23 (1) review electric power consumption by Bu-
24 reau of Reclamation facilities for water pumping
25 purposes; and



1 (2) make such adjustments in such pumping as
2 possible to minimize the amount of electric power
3 consumed for such pumping during periods of peak
4 electric power consumption, including by performing
5 as much of such pumping as possible during off-
6 peak hours at night.

7 (b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS
8 REQUIRED.—The Secretary may not under this section
9 make any adjustment in pumping at a facility without the
10 consent of each person that has contracted with the
11 United States for delivery of water from the facility for
12 use for irrigation and that would be affected by such ad-
13 justment.

14 (c) EXISTING OBLIGATIONS NOT AFFECTED.—This
15 section shall not be construed to affect any existing obliga-
16 tion of the Secretary to provide electric power, water, or
17 other benefits from Bureau of Reclamation facilities, in-
18 cluding recreational releases.

